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*Counsel for Nobuaki Kobayashi, in his capacity
as the Bankruptcy Trustee and Foreign Representative
of MtGox Co., Ltd., a/k/a MtGox KK*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

MtGox Co., Ltd. (a/k/a MtGox KK),

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 14-31229-sgj-15

**MOTION FOR ENTRY OF ORDER APPROVING
AMENDED RECOGNITION HEARING NOTICE PROCEDURES**

Nobuaki Kobayashi, in his capacity as the bankruptcy trustee and foreign representative (the “Foreign Representative”) of MtGox Co., Ltd., a/k/a MtGox KK (the “Debtor”), a debtor in a bankruptcy proceeding under Japanese law (the “Japan Proceeding”), currently pending before

the Twentieth Civil Division of the Tokyo District Court in Japan (the “Tokyo Court”), by his undersigned U.S. counsel, hereby moves (the “Motion”) for entry of an order, pursuant to sections 105(a) and 1514 of title 11 of the United States Code (the “Bankruptcy Code”), and Rules 2002, 9006, 9007 and 9008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving amended procedures governing the time and manner for service of the Recognition Hearing Notice (defined below). In support of the Motion, the Foreign Representative respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
2. Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.
3. The statutory predicates for the relief requested herein are Bankruptcy Code Sections 105(a) and 1514, along with Bankruptcy Rules 2002, 9006, 9007 and 9008.

BACKGROUND

4. On February 28, 2014, the Debtor, through its prior foreign representative, Mr. Robert Marie Mark Karpeles, filed a petition (the “Japan Petition”) for the commencement of a civil rehabilitation proceeding (the “Japan Civil Rehabilitation”) in the Tokyo Court pursuant to Article 17(1) of the Japanese Corporate Reorganization Act (*Kaisha Kosei Ho*) (the “JCRA”).
5. On March 9, 2014, the Debtor filed a voluntary petition for relief under Chapter 15 of the Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Court”), under the above-captioned case number 14-31229-sgj-15 (the “Chapter 15 Case”) and filed its *Verified Petition for Recognition and Chapter 15 Relief* [Docket No. 2] (the “Recognition Petition”).

6. On March 10, 2014, the Debtor filed the *Emergency Application for an Order Granting Provisional Relief Pursuant to Section 105(a) and 1519 of the Bankruptcy Code, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice* [Docket No. 4]. On the same day, the Court entered its *Order Granting Application for Provisional Relief, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice* [Docket No. 13], which, among other things, established a date for the hearing on the Recognition Petition (the “Recognition Hearing”) that was originally set for April 1, 2014.

7. On March 20, 2014, the Debtor filed the *Motion to Adjourn Recognition Hearing* [Docket No. 29], seeking adjournment of the Recognition Hearing to May 6, 2014.

8. On March 24, 2014, the Court entered its *Order Granting Adjournment of Recognition Hearing* [Docket No. 36] (the “First Adjournment Order”), adjourning the Recognition Hearing to May 6, 2014. Pursuant to the First Adjournment Order, the Court approved a form of notice of adjournment of the Recognition Hearing (the “Recognition Hearing Notice”) and required the Debtor to serve copies of the First Adjournment Order and the Recognition Hearing Notice upon the Notice Parties¹ no less than 23 days prior to the Recognition Hearing.

9. On March 27, 2014, the Debtor filed the *Emergency Motion to Approve Notice Procedures* [Docket No. 48] (the “Notice Procedures Motion”), seeking approval of the manner by which it would serve the Recognition Hearing Notice.

¹ The Notice Parties are: (i) the Debtor; (ii) all parties to the two pending lawsuits in the United States: (a) *CoinLab, Inc. v. MtGox KK*, Case No. 13-0777 (W.D. Wash. May 2, 2013) and (b) *Greene v. MtGox Inc.*, Case No. 14-01437 (N.D. Ill. Feb. 27, 2014) (collectively, the “US Litigation Matters”); (iii) the Office of the United States Trustee for the Northern District of Texas; and (iv) such other parties as the Court may direct.

10. On March 28, 2014, the Court entered its *Order Granting Request for Emergency Hearing* [Docket No. 50], setting April 1, 2014 as the hearing date to consider the Notice Procedures Motion.

11. On April 14, 2014, the Court entered its *Order Adjourning the Recognition Hearing and Granting Emergency Motion to Approve Notice Procedures* [Docket No. 84] (the “Second Adjournment Order”), further adjourning the Recognition Hearing to May 20, 2014. Pursuant to the Second Adjournment Order, the Court required the Debtor to, among other things: (i) serve copies of the revised Recognition Hearing Notice upon the Notice Parties by the later of (a) 23 days prior to the Recognition Hearing or (b) three business days following the filing of a party’s notice of appearance; (ii) notice each of the Debtor’s customers via electronic mail on or before April 25, 2014; and (iii) cause the Publication Notice (defined in the Second Adjournment Order) to be published on the Debtor’s website and on <http://www.reddit.com>.

12. On April 16, 2014, the Tokyo Court entered judgments (the “Japan April 16 Judgments”) as follows: (a) dismissing the Japan Petition; (b) ordering administration of the Debtor’s assets by Mr. Kobayashi, in the capacity as a provisional administrator; (c) prohibiting certain actions by creditors with regard to properties of the Debtor during the interim period following the dismissal and prior to the commencement of a bankruptcy procedure for the Debtor; and (d) prohibiting Mr. Kobayashi, in his capacity as the provisional administrator, from undertaking certain actions with respect to the Debtor’s debt, properties and claims. Copies of the Japan April 16 Judgments and their English translations were submitted to the Court as Exhibits A, B, C and D, respectfully, to the *Notice Pursuant to 11 U.S.C. § 1518 of Change in Status of Foreign Proceeding and Appointment of Foreign Representative* [Docket No. 108], filed on April 28, 2014 (the “1518 Notice”).

13. On April 24, 2014, the Tokyo Court entered an order formally commencing the Debtor's Japan Proceeding and appointing Mr. Kobayashi as bankruptcy trustee (the "Bankruptcy Order"). A copy of the Bankruptcy Order and its English translation were submitted to the Court as Exhibit E to the 1518 Notice.

14. On April 25, 2014, the Foreign Representative formally retained Brown Rudnick LLP and Garedere Wynne Sewell LLP to represent the Foreign Representative and filed notices of appearance in this Chapter 15 case. See Docket Nos. 102 and 103.

15. On April 30, 2014, the Court held the Status Conference and, in light of the changed circumstances arising from the Bankruptcy Order and related matters, the Court stated on the record that it would adjourn the Recognition Hearing to June 17, 2014 and set May 23, 2014 as the deadline by which the Foreign Representative must file and serve an amended Recognition Petition.

16. On May 7, 2014, following an April 30, 2014 status conference, the Court entered the *Scheduling Order* [Docket No. 121] (the "Scheduling Order"), which, among other things: (i) established May 23, 2014 at 5:00 p.m. (CDT) as the deadline for the Foreign Representative to file and serve an amended Recognition Petition and related papers; and (ii) rescheduled the Recognition Hearing for June 17, 2014 at 9:30 a.m (CDT).

RELIEF REQUESTED

17. By this Motion, the Foreign Representative respectfully seeks entry of an amended order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), approving the time and manner for service of the Recognition Hearing Notice consistent with the Scheduling Order.

BASIS FOR RELIEF

18. Bankruptcy Rule 2002(q)(1) provides that the parties identified therein must be given at least twenty-one (21) days' notice of a hearing to consider a petition for recognition of a foreign proceeding. Pursuant to Bankruptcy Rule 9007, the form and manner of notice under the Bankruptcy Rules shall be designated by the Court, unless otherwise provided by the Bankruptcy Rules. Since Bankruptcy Rule 2002(a) does not specify the form and manner of notice required for a hearing on a petition for recognition of a foreign proceedings, this Court is required to do so.

19. Under the First Adjournment Order and Second Adjournment Order (together, the "Prior Adjournment Orders"), this Court has already approved the form and manner of service of the Recognition Hearing Notice and directed service no less than twenty-three (23) days from the Recognition Hearing, the date of which was further adjourned by the Scheduling Order. Thus, by this Motion, the Foreign Representative seeks approval of a revised version of the Second Adjournment Order that reflects the hearing dates and deadlines established by the Scheduling Order.

20. Specifically, the Foreign Representative proposes to serve the Recognition Hearing Notice upon the Notice Parties that are known to the Foreign Representative as of the date hereof on or before May 23, 2014 via United States First Class Mail and/or via email (at their last mailing address or email address known to the Foreign Representative).

21. In addition, the Foreign Representative proposes to publish an abbreviated version of the Recognition Hearing Notice, the text of which is attached to the Proposed Order as

Exhibit B (the “Publication Notice”), on the Debtor’s website, <https://www.mtgox.com>; and on <http://www.reddit.com>.²

22. Such manner of service would be most expedient, effective, and economical under the circumstances, particularly given the online and digital nature of the Debtor’s business. Accordingly, the Foreign Representative respectfully submits that such manner of service constitutes adequate and sufficient notice of the Recognition Hearing and the relief sought therein.

23. Furthermore, as set forth in the Second Adjournment Order, if any party files a notice of appearance in this case, the Foreign Representative shall serve the Recognition Hearing Notice upon such party by the later of (a) 23 days prior to the Recognition Hearing; or (b) three business days following the filing of such notice of appearance, unless such party or its counsel has otherwise already been served with the Recognition Hearing Notice.

24. In addition, the Foreign Representative seeks approval of deadlines for filing objections to the amended Recognition Petition and a reply to such objections, if any. Specifically, the Foreign Representative respectfully requests that the deadline for filing objections and/or responses to the amended Recognition Petition be set for **4:00 p.m. (prevailing Central Time) on June 6, 2014** and the deadline for the Foreign Representative to

² The Foreign Representative notes that the Second Adjournment Order required the prior foreign representative to send the Recognition Hearing Notice to the Debtor’s customers via electronic mail. The Proposed Order does not contain this provision because the Foreign Representative has not, to date, used the Debtor’s e-mail system to communicate with customers, and has relied on publication of notices on the MtGox website to communicate with customers, including with respect to the Japan Proceeding. Although the Foreign Representative does have access to the Debtor’s e-mail system, he is currently in the process of reconciling the information on the system to determine which customers had a cash or bitcoin balance with the MtGox exchange when it was shut down. When that process is completed and there is an accurate list of current customers, the Foreign Representative intends to establish a new e-mail system to provide communications regarding the Japan Proceeding. Under the circumstances, including the current communication and notice procedures in place and the online nature of the Debtor’s business, the Foreign Representative submits that publication of the Recognition Hearing Notice via website is sufficient notice to the Debtor’s customers.

file a reply to any such objections be set for **4:00 p.m. (prevailing Central Time) on June 13, 2014.**

CERTIFICATE OF CONFERENCE

25. Counsel for the Foreign Representative has conferred with the Office of the United States Trustee for the Northern District of Texas, counsel for plaintiffs Gregory Greene and Joseph Lack, and counsel for CoinLab, Inc. and was advised that they were not opposed to this Motion.

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CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests that this Court (a) grant the Motion; (b) enter an order, substantially in the form attached hereto as **Exhibit A**, amending the time and manner for service of the Recognition Hearing Notice; and (c) grant the Foreign Representative such other and further relief as the Court deems just and proper.

Dated: May 12, 2014
Dallas, Texas

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

/s/ Marcus A. Helt

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*Counsel for Nobuaki Kobayashi, in his capacity
as the Bankruptcy Trustee and Foreign
Representative of MtGox Co., Ltd., a/k/a MtGox KK*

Exhibit A:
Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

MtGox Co., Ltd. (a/k/a MtGox KK),

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 14-31229-sgj-15

**ORDER GRANTING APPROVAL OF AMENDED
RECOGNITION HEARING NOTICE PROCEDURES**

Upon the Foreign Representative's *Motion to Approve Amendment to Notice Procedures with Respect to Recognition Hearing* [Docket No. •] (the "Motion"),¹ seeking approval of the time and manner for the service of the Recognition Hearing Notice pursuant to sections 105(a) and 1514 of title 11 of the United States Code (the "Bankruptcy Code"), and Rules 2002, 9006, 9007 and 9008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and it appearing that proper and

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is **GRANTED**.
2. The Prior Adjournment Orders are superseded by the terms of this Order and the Scheduling Order.
3. The form of revised Recognition Hearing Notice, attached hereto as **Exhibit A** is hereby approved.
4. The Foreign Representative shall serve the Recognition Hearing Notice upon the Notice Parties that are known to the Foreign Representative as of the date hereof on or before May 23, 2014 via United States First Class Mail and/or via email (at their last known mailing address or email address, if for whom the Foreign Representative has such addresses).
5. The form of abbreviated version of the Recognition Hearing Notice attached hereto as **Exhibit B** (the "Publication Notice") is hereby approved.
6. The Foreign Representative shall cause the Publication Notice to be published on the Debtor's website, <https://www.mtgox.com>, and on <http://www.reddit.com> on or before May 23, 2014.
7. If any party files a notice of appearance in this case, the Foreign Representative shall serve the Recognition Hearing Notice upon such party by the later of (a) twenty-three (23) days prior to the Recognition Hearing; or (b) three (3) business days following the filing of such notice of appearance, unless such party or its counsel has otherwise already been served with the Recognition Hearing Notice.

8. Service pursuant to this Order shall be good and sufficient service and adequate notice of the Recognition Hearing.

9. Any objections or responses to the amended Recognition Petition shall be filed with the Court and served upon the Notice Parties so as to be received on or before **4:00 p.m. (prevailing Central Time) on June 6, 2014.**

10. If any objections or responses are timely filed and served, the Foreign Representative may file with the Court, and if filed shall serve upon the Notice Parties, a reply to such objections or responses so as to be received on or before **4:00 p.m. (prevailing Central Time) on June 13, 2014.**

END OF ORDER

Prepared and Submitted by:

GARDERE WYNNE SEWELL LLP

/s/ Marcus A. Helt

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Thomas Scannell (TX 24070559)
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*Counsel for Nobuaki Kobayashi, in his capacity
as the Bankruptcy Trustee and Foreign
Representative of MtGox Co., Ltd., a/k/a MtGox KK*

EXHIBIT A:

Revised Form of Recognition Hearing Notice

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as the Bankruptcy Trustee and Foreign Representative
of MtGox Co., Ltd., a/k/a MtGox KK*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

MtGox Co., Ltd. (a/k/a MtGox KK),

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 14-31229-sgj-15

NOTICE OF RECOGNITION HEARING

PLEASE TAKE NOTICE that a hearing (the “Recognition Hearing”) on the *Amended Verified Petition for Recognition and Chapter 15 Relief* [Docket No. •] (the “Amended Recognition Petition”) filed by Nobuaki Kobayashi, in his capacity as the bankruptcy trustee and foreign representative (the “Foreign Representative”) of MtGox Co., Ltd., a/k/a MtGox KK (the

“Debtor”), seeking recognition of the Debtor’s bankruptcy proceeding, pending before the Twentieth Civil Division of the Tokyo District Court, Japan, as a foreign main proceeding pursuant to Chapter 15 of the United States Bankruptcy Code and other related relief under Chapter 15, has been scheduled for **June 17, 2014 at 9:30 a.m. (prevailing Central Time)**, and will take place before the **Honorable Stacey G.C. Jernigan, at the United States Bankruptcy Court, Northern District of Texas, 14th Floor, 1100 Commerce Street, Dallas, Texas 75252.**

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the Amended Recognition Petition shall be filed with this Court and served by mail or email upon: (i) the United States lead counsel to the Foreign Representative at Brown Rudnick LLP, Seven Times Square, 47th Floor, New York, NY 10036 (attn: David J. Molton, dmolton@brownrudnick.com and Daniel J. Saval, dsaval@brownrudnick.com); (ii) the United States local counsel to the Foreign Representative at Gardere Wynne Sewell LLP, 1601 Elm Street, Suite 3000, Dallas, TX 75201-3000 (attn: Marcus A. Helt, mhelt@gardere.com and Thomas Scannell, tscannell@gardere.com); (iii) counsel to the United States Trustee at Lisa.L.Lambert@usdoj.gov; (iv) counsel to plaintiffs in the Chicago putative class action or “Greene” action at Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, TX 75219 (attn: Robin E. Phelan, robin.phelan@haynesboone.com and Stephen Manz, stephen.manz@haynesboone.com), Honigman Miller Schwartz and Cohn LLP, 2290 First National Building, 660 Woodward Avenue, Detroit, MI 48226 (attn: Scott B. Kitei, skitei@honigman.com), and Edelson P.C., 350 North LaSalle Street, Suite 1300, Chicago, IL 60654 (attn: Jay Edelson, jedelson@edelson.com and Steven L. Woodrow, swoodrow@edelson.com); and (v) counsel to CoinLab, Inc. at Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105 (attn: Larry Engel, lengel@mofo.com and Vincent J.

Novak, vnovak@mofo.com) so as to be received on or before **4:00 p.m. (prevailing Central Time) on June 6, 2014.**

PLEASE TAKE FURTHER NOTICE that copies of the Amended Recognition Petition and accompanying papers are available to parties-in-interest on the Bankruptcy Court's Electronic Case Filing System, which can be accessed at this website: <http://www.txnb.uscourts.gov/> (a PACER login and password are required to retrieve a document), or upon written notice, by mail or email, to the United States counsel to the Foreign Representative at the contact information above.

Dated: _____, 2014
Dallas, Texas

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

/s/ Marcus A. Helt
Marcus A. Helt (TX 24052187)
Thomas Scannell (TX 24070559)
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*Counsel for Nobuaki Kobayashi, in his capacity
as the Bankruptcy Trustee and Foreign
Representative of MtGox Co., Ltd., a/k/a MtGox KK*

EXHIBIT B:

Revised Publication Notice

NOTICE OF RECOGNITION HEARING

In re MtGox Co., Ltd. (a/k/a MtGox KK), Case no. 14-31229-sgj-15
United States Bankruptcy Court for the Northern District of Texas, Dallas Division

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